



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,464	07/22/2003	Donald G. Gordy	3993968-143492	5565

23570 7590 04/12/2006

PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS, OH 43215

EXAMINER

LUONG, VINH

ART UNIT PAPER NUMBER

3682

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/624,464	Applicant(s) GORDY ET AL.	
	Examiner Vinh T. Luong	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>✓ 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>✓ 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date <u>9/17/04</u></p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>✓ 6) <input checked="" type="checkbox"/> Other: <u>Attachment</u></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

1. Applicant's election without traverse of the species of Figs. 16-18 in the reply filed on January 25, 2006 is acknowledged.

2. No claim is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 25, 2006.

3. The information disclosure statement filed September 17, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because of the reasons, *e.g.*, listed below:

(a) Applicant misidentified the foreign references as US Patent Documents;

(b) It does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language (DE 195 28 953 A1) as required under 37 CFR 1.98(a)(3)(i); and/or

(c) Applicant did not identify *each* foreign patent or published foreign application by the country or patent office, which issued the patent or published the application as required under 37 CFR.1.98(b)(4).

It has been placed in the application file, but the information referred to in the foreign patents or published foreign applications except EP 0 810 379 A2 has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements

under 37 CFR 1.97(e). See MPEP § 609.05(a) and page 3 of the Restriction Requirement on December 22, 2005.

4. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

5. In response to this requirement, please provide the title, citation and copy of each publication and patent (US and foreign) that any of the applicants relied upon to develop the disclosed subject matter that describes the applicant's invention, particularly as to developing the claimed motion transmitting cable assembly. For each publication and patent, please provide a concise explanation of the reliance placed on that publication and patent in the development of the disclosed subject matter.

6. In response to this requirement, please provide the title, citation and copy of each publication and patent (US and foreign) that any of the applicants relied upon to draft the claimed subject matter. For each publication and patent, please provide a concise explanation of the reliance placed on that publication in distinguishing the claimed subject matter from the prior art.

7. In response to this requirement, please state the specific improvements of the subject matter in claims 1-42 over the disclosed prior art and indicate the specific elements in the claimed subject matter that provide those improvements. For those claims expressed as means or steps plus function, please provide the specific page and line numbers within the disclosure which describe the claimed structure and acts.

8. In response to this requirement, please point out the patentable novelty, which Applicant thinks the claims present in view of the state of the art disclosed by the references cited, and show how the amendments avoid such references. See 37 CFR 1.111(b) and (c).

9. In response to this requirement, please identify pending or abandoned applications filed by at least one of the inventors or assigned to the same assignee as the current application that disclose similar subject matter that are not otherwise identified in the current application. See MPEP 704.11(a).

10. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in Applicant's disclosure.

11. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

12. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain

an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

13. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

14. The drawings are objected to because the drawings are inconsistent with the specification or *vice versa*. For example, paragraph [0042] of the specification describes that the slider 34 is made of plastic material, however, the hatching in Figs. 6 and 7 shows that the slider 34 is made of metal in accordance with the drawing symbols in MPEP 608.02

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

15. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features such as the disengaged position and/or the engaged position in claims 1, 10, 18, 26, 33, and 41 must be shown or the features canceled from the claims. *No new matter should be entered.*

Note that 37 CFR 1.84(h)(4) states: “[a] moved position may be shown by a broken line superimposed upon a suitable view if this can be done without crowding; otherwise, a separate view must be used for this purpose.”

16. The disclosure is objected to because of the following informalities: the specification is inconsistent with the drawings or *vice versa*. For example, paragraph [0042] of the specification describes that the slider 34 is made of plastic material, however, the hatching in Figs. 6 and 7 shows that the slider 34 is made of metal in accordance with the drawing symbols in MPEP 608.02. Appropriate correction is required.

17. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter, such as, “a first section,” “a second section,” and “a third section” *of the lock body* in claims 1 and 18, etc. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

18. The disclosure is objected to because of the following informalities: the disclosure contains typographical or grammatical errors. For example, “first section” in claim 5 should have been “the first section.” Appropriate correction is required.

19. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3682

20. Claims 1-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms, such as, “operable” and “movable” in claims 1, 10, 18, 26, 33, and 41, and “engagable” in claims 7, 8, 15, 16, 26, 32, and 33, *etc.*, are vague and indefinite in the sense that things which may be done are not required to be done. For example, in claim 1, the lock body is movable, but is not required structurally to be moved between the disengaged and engaged positions. See “discardable” in *Mathis v. Hydro Air Industries*, 1 USPQ2d 1513, 1527 (D.C. Calif. 1986), “crimpable” in *Application of Collier*, 158 USPQ 266 (CCPA 1968), “removable” in *In re Burke Inc.*, 22 USPQ2d 1368, 1372 (D.C. Calif. 1992), and “comparable” in *Ex parte Anderson*, 21 USPQ2d 1241, 1249 (BPAI 1992).

The term “generally” in claim 1 is a relative term which renders the claim indefinite. The term “generally” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear, e.g., what geometrical shape is considered to be “generally I-shaped.”

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

22. Claims 1 and 5-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Malone (EP 0810 379 A2 cited by Applicant).

Regarding claim 1, Malone teaches a motion transmitting cable assembly comprising, in combination:

a flexible conduit 14 (Fig. 1) extending along a central axis;

a flexible core 12 movable within the conduit 14 along the central axis;

an adjuster body 18 secured to the conduit 14 and having a plurality of teeth 20

(Fig. 1);

a slider body 22 movable along the adjuster body 18 along the central axis;

a lock body 34 having a plurality of teeth 36 and operable with the slider body 22

such that the lock body 34 is movable between a disengaged position wherein the teeth 36 of the lock body 34 are disengaged from the teeth 20 of the adjuster body 18 to allow movement of the slider body 22 relative to the adjuster body 18 along the central axis and an engaged position wherein the teeth 36 of the lock body 34 are engaged with the teeth 20 of the adjuster body 18 to prevent movement of the slider body 22 relative to the adjuster body 18 along the central axis; and wherein the lock body 34 includes a first (front) section 40, a second (rear) section 40 forming the plurality of teeth 36 of the lock body 34, and a third (intermediate) section 46 located between the first section 40 and the second section 40 and forming opposed lateral slots 50 such that the lock body 34 is generally I-shaped.

Regarding claim 5, the first section 40 of the lock body 34 interlocks with the slider body.

Regarding claim 6, the interlock between the first section 40 of the lock body 34 and the slider body 22 includes a plurality of tabs 38 of the first section 40 of the lock body 34 extending into a plurality of pockets 28 formed in the slider body 34. Id., claims 1-17.

Art Unit: 3682

Regarding claim 7, the second (rear) section 40 of the lock body 34 has a snap lock 58 located at an end of the second section 40 of the lock body 34 opposed to the first (front) section 40 of the lock body 34 and engagable with the slider body 22 to releasably lock the lock body 34 in the locking position.

23. Claims 1, 5, and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Reasoner'182 (USP 5,632,182).

Regarding claim 1, Reasoner'182 teaches a motion transmitting cable assembly comprising, in combination:

- a flexible conduit 16, 20 (Fig. 1) extending along a central axis;

- a flexible core 12, 14 movable within the conduit 16, 20 along the central axis;

- an adjuster body 22 secured to the conduit 16, 20 and having a plurality of teeth 48 (Fig. 1);

- a slider body 18 movable along the adjuster body 22 along the central axis;

- a lock body 46 having a plurality of teeth 50 and operable with the slider body 18 such that the lock body 46 is movable between a disengaged position wherein the teeth 50 of the lock body 46 are disengaged from the teeth 48 of the adjuster body 22 to allow movement of the slider body 18 relative to the adjuster body 22 along the central axis and an engaged position wherein the teeth 50 of the lock body 46 are engaged with the teeth 48 of the adjuster body 22 to prevent movement of the slider body 18 relative to the adjuster body 22 along the central axis; and wherein the lock body 46 includes a first (front) section (see Attachment), a second (rear) section forming the plurality of teeth 50 of the lock body 46, and a third (intermediate) section

Art Unit: 3682

located between the first section and the second section and forming opposed lateral slots (Att.) such that the lock body 46 is *generally* I-shaped.

Regarding claim 5, the first section (Att.) of the lock body 46 interlocks with the slider body 18.

Regarding claim 6, the interlock between the first section (Att.) of the lock body 46 and the slider body 18 includes a plurality of tabs (Att.) of the first section (Att.) of the lock body 46 extending into a plurality of pockets (Att.) formed in the slider body 18. *Id.*, Fig. 1.

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

26. Claims 2-4, 10-14, and 18-22, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Reasoner'182 in view of Suzuki et al. (US Patent No. 6,340,265 B1).

Regarding claim 2, Reasoner'182 teaches the invention substantially as claimed. However, Reasoner'182 does not teach the fixed mounting bracket.

Suzuki teaches a fixed mounting bracket 2 extending into the slots to interlock the lock body 3 and the mounting bracket 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fixed mounting bracket extending into the slots of Reasoner'182 to interlock Reasoner'182's lock body and the mounting bracket as taught or suggested by Suzuki.

Regarding claim 3, Suzuki's mounting bracket 2 has an opening 10 receiving the slider body therein and a slot 10a extending from the opening to an edge of the mounting bracket 2, and edges of the slot 10a of the mounting bracket 2 are located in the slots of the lock body 3 (Fig. 6).

Regarding claim 4, the slots of Reasoner'182's lock body 46 are at least *partially* wedge shaped to ensure engagement with the edges of the slot 10a of Suzuki's mounting bracket as seen in Reasoner'182's Fig. 1.

Regarding claims 10, 12, 14, and 20, see regarding claims 2, 3, 4, 6, and 12 above.

Regarding claims 11, 13, 21, and 22, see Attachment.

Regarding claim 18, see regarding claim 2 and Attachment.

Regarding claim 19, see Att. and Suzuki's bracket 2.

27. Claims 8, 9, 15-17, 23-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

28. Claims 26-42 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Art Unit: 3682

29. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lewis et al. (Fig. 5), Burger (bracket 16), Sevrence (bracket 14a), Yasui et al. (bracket 2), Kolinske et al. (aperture 60), and Yasuda (Fig. 4).

31. This Office action has an attached requirement for information under 37 CFR 1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

April 10, 2006



Vinh T. Luong
Primary Examiner

ATTACHMENT

